

### Subpart H—Waiver of Moratorium on Taking and Importation of Individual Marine Mammal Species

SOURCE: 41 FR 14373, Apr. 5, 1976, unless otherwise noted.

#### § 18.92 Purpose of regulations.

The regulations contained in this subpart fulfill the requirements of section 103 of the Act for regulations to govern the taking and importation of each species of marine mammal for which the moratorium imposed by section 101 has been waived.

#### § 18.93 Scope of regulations.

(a) The provisions in this subpart apply only after (1) the Director has made a decision to waive a moratorium pursuant to section 101(a)(3)(A) of the Act, (2) the opportunity for a hearing required by section 103(d) of the Act has been provided, and (3) the Director has made a determination, in the case of State laws and regulations, to approve such State laws and regulations pursuant to section 109(a)(2) of the Act and subpart F of this part.

(b) The provisions of this subpart, unless specifically stated, apply to all taking and/or importation of each species of marine mammal for which the moratorium has been waived other than takings for scientific research or public display, which are governed by § 18.31 of this part, or takings incidental to commercial fishing operations which are governed by § 18.24.

#### § 18.94 Pacific walrus (Alaska).

(a) Pursuant to sections 101(a)(3)(A) 103, and 109 of the Marine Mammal Protection Act of 1972, the moratorium on the hunting and killing of Pacific walrus (*Odobenus rosmarus*) in waters or on lands subject to the jurisdiction of the State of Alaska, the United States, or on the high seas by any person, vessel, or conveyance subject to the jurisdiction of the State of Alaska or the United States, is waived, provided that beginning August 2, 1979 this waiver

shall not be effective, and no taking or importation under the waiver shall be allowed, until this section is amended to establish regulations to effectively control taking and otherwise implement the waiver.

(b) [Reserved]

[41 FR 14373, Apr. 5, 1976, as amended at 44 FR 45566, Aug. 2, 1979]

### Subpart I [Reserved]

### Subpart J—Nonlethal Taking of Marine Mammals Incidental to Oil and Gas Exploration, Development, and Production Activities in the Beaufort Sea and Adjacent Northern Coast of Alaska

SOURCE: 71 FR 43950, Aug. 2, 2006, unless otherwise noted.

EFFECTIVE DATE NOTE: At 71 FR 43950, Aug. 2, 2006, Subpart J was added, effective Aug. 2, 2006 through Aug. 2, 2011.

#### § 18.121 What specified activities does this subpart cover?

Regulations in this subpart apply to the nonlethal incidental, but not intentional, take of small numbers of polar bear and Pacific walrus by you (U.S. citizens as defined in § 18.27(c)) while engaged in oil and gas exploration, development, and production activities in the Beaufort Sea and adjacent northern coast of Alaska.

#### § 18.122 In what specified geographic region does this subpart apply?

This subpart applies to the specified geographic region defined by a north-south line at Barrow, Alaska, and includes all Alaska coastal areas, State waters, and Outer Continental Shelf waters east of that line to the Canadian border and an area 25 miles inland from Barrow on the west to the Canning River on the east. The Arctic National Wildlife Refuge is not included in the area covered by this subpart. Figure 1 shows the area where this subpart applies.

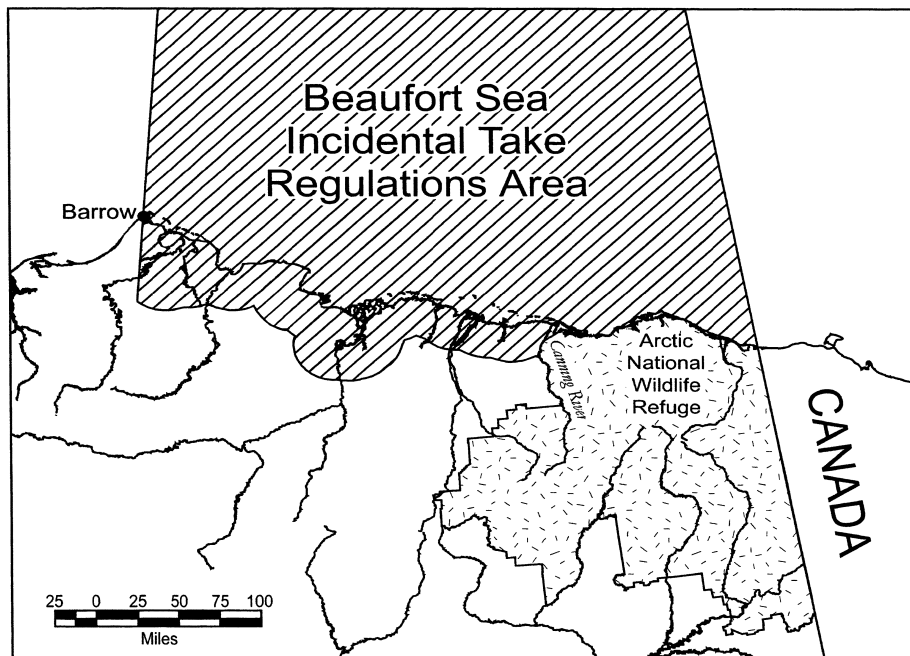


Figure 1. Specific geographic region covered by the Beaufort Sea incidental take regulations.

**§ 18.123 When is this subpart effective?**

Regulations in this subpart are effective from August 2, 2006 through August 2, 2011 for year-round oil and gas exploration, development, and production activities.

**§ 18.124 How do I obtain a Letter of Authorization?**

(a) You must be a U.S. citizen as defined in § 18.27(c).

(b) If you are conducting an oil and gas exploration, development, or production activity in the specified geographic region described in § 18.122 that may cause the taking of polar bear or Pacific walrus in execution of those activities and you want nonlethal incidental take authorization under this rule, you must apply for a Letter of Authorization for each exploration activity or a Letter of Authorization for

activities in each development or production area. You must submit the application for authorization to our Alaska Regional Director (see 50 CFR 2.2 for address) at least 90 days prior to the start of the proposed activity.

(c) Your application for a Letter of Authorization must include the following information:

(1) A description of the activity, the dates and duration of the activity, the specific location, and the estimated area affected by that activity, i.e., a Plan of Operation.

(2) A site-specific plan to monitor the effects of the activity on the behavior of polar bear and Pacific walrus that may be present during the ongoing activities. Your monitoring program must document the effects to these marine mammals and estimate the actual level and type of take. The monitoring requirements will vary depending on